



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MA 02109-3912

May 8, 2020

Anna Harris  
Maine Field Office Project Leader  
Maine-NH Fish and Wildlife Complex  
US Fish and Wildlife Service  
306 Hatchery Road  
East Orland, Maine 04431

Re: Effects of Certain State of Maine Water Quality Standards on Federally Endangered and Threatened Terrestrial and Freshwater Species.

Dear Ms. Harris:

On February 6, 2020, Maine's Board of Environmental Protection (BEP) adopted revisions to Chapter 584 of DEP's regulations (Surface Water Quality Criteria for Toxic Pollutants), and they took effect on February 16, 2020, including revised statewide ammonia and cadmium criteria for aquatic life use (ME DEP 2020). If approved by EPA, the criteria will be effective for all Clean Water Act purposes, including being the applicable instream criteria to protect aquatic life uses in Maine's waters. Consistent with its obligations under the Endangered Species Act, the EPA Region 1 is consulting with the United States Fish and Wildlife Service (FWS) on the revised aquatic life criteria in advance of approving them. The attached Biological Evaluation (BE) addresses whether EPA's approval of the State's revised criteria is likely or unlikely to adversely affect federally listed endangered or threatened terrestrial and freshwater species in Maine.

For purposes of this Section 7 consultation support document, the extent and location of the action area are defined as:

- 1.) All of the State of Maine for the Northern long-eared bat;
- 2.) A block of the northern half of the State for the Canada lynx; (Also, the Designated Critical Habitat for the Canada lynx.)
- 3.) A block of the northeast portion of the State for the Eastern prairie fringed orchid;
- 4.) The upper stretch of the St. John's River for Furbish's lousewort;
- 5.) Maine coastal lands and beaches, and coastal waters for the piping plover, red knot, and roseate tern; and
- 6.) Large portions of the southern two thirds of the State for the Atlantic salmon. (Also, the Designated Critical Habitat for the Atlantic salmon.)

There is one endangered species of salmon listed under the Endangered Species Act that occurs or has the potential to occur in the action area and may be affected by the proposed action. One

species of threatened lynx, one species of endangered plant and one species of threatened plant, two species of threatened shore birds and one species of endangered shore bird, and one species of threatened bat also occur in the action area. Critical habitat for the Canada lynx and Atlantic salmon overlaps the action area in Maine.

The BE addresses the proposed action in compliance with Section 7(c) of the ESA of 1973, as amended. Section 7 of the ESA assures that, through consultation (or conferencing for proposed species) with the FWS, federal actions do not jeopardize the continued existence of any threatened, endangered or proposed species, or result in the destruction or adverse modification of critical habitat. The BE evaluates the potential effects that the proposed aquatic life criteria may have on federally protected species, specifically the Northern long-eared bat, Canada lynx, Eastern prairie fringed orchid, Furbish's lousewort, piping plover, roseate tern, red knot, and Atlantic salmon.

As part of Maine DEP's Chapter 584 revision, site-specific aquatic life criteria for metals (cadmium, copper, lead and zinc) were adopted for a stretch of the St. Croix river between the dams in Baileyville and Calais, ME. The only federally-listed threaten or endangered species that occurs in the Action Area for these criteria is the Northern long-eared bat. EPA Region 1 completed Section streamlined 4(d) consultation for the bat using the IPaC system on May 8, 2020. The EPA received verification from the U.S. Fish and Wildlife Service that the Action may affect the northern long-eared bat; however, any take that may occur as a result of the Action is not prohibited under the ESA Section 4(d) rule adopted for this species at 50 CFR §17.40(o). The verification letter from USFWS is attached.

EPA concludes that, though approval of the WQS may affect some of the listed species, they are not likely to adversely affect the species.

EPA seeks FWS concurrence that approval of the WQS will not affect or is not likely to adversely affect the federally-listed species in Maine.

Please contact me at (617) 918-1629 or Steve Winnett at (617) 918-1687 if you have any questions.

Sincerely,

Ralph W. Abele

Chief, Water Quality Standards Section  
Water Division  
EPA Region 1

CC:  
Don Witherill, ME DEP  
Wende Mahaney, US FWS